

SENATE BILL 564

R3
SB 735/09 – JPR

0lr0487
CF HB 743

By: **Senators Raskin, Astle, Colburn, Conway, Currie, DeGrange, Dyson, Forehand, Frosh, Glassman, Harrington, Jacobs, Kasemeyer, Kelley, King, Kramer, Lenett, Madaleno, McFadden, Middleton, Mooney, Munson, Peters, Pinsky, Pugh, Robey, Simonaire, Stone, and Zirkin**

Introduced and read first time: February 4, 2010

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 24, 2010

CHAPTER _____

1 AN ACT concerning

2 **Drunk Driving Elimination Act**

3 FOR the purpose of altering the Motor Vehicle Administration's authority to establish
4 an Ignition Interlock System Program to require the Administration to establish
5 the Program; requiring rather than authorizing the Administration to establish
6 a protocol for the Program by certain regulations; altering the circumstances
7 under which individuals may participate in the Program; requiring the
8 Administration to require an individual convicted of ~~or granted probation for~~
9 certain alcohol-related driving offenses to participate in the Program for certain
10 minimum amounts of time; requiring the Administration to require a certain
11 individual to successfully complete the Program; requiring the Administration
12 to impose a certain license restriction for a certain minimum amount of time;
13 requiring the Administration to suspend the drivers' licenses of certain
14 individuals who are in violation of the Program for certain amounts of time;
15 requiring the Administration to establish a certain fee; requiring individuals
16 who are in the Program to be monitored by the Administration and to pay a
17 certain fee under certain circumstances; requiring certain service providers to
18 demonstrate a certain ability under certain circumstances; altering the
19 authority of the Administration to require certain individuals to participate in
20 the Program; establishing that ~~an individual shall be credited for any successful~~
21 ~~participation in the Program that occurs before a hearing in court; providing a~~
22 ~~certain mandatory minimum penalty for a person who is convicted of driving~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~while the person's license to drive is suspended or revoked if the person's license to drive was suspended or revoked as a result of certain alcohol-related driving offenses or a failure to successfully complete the Program~~ Program participation that is required under certain circumstances shall run concurrently to participation ordered by a court; and generally relating to participation in the Ignition Interlock System Program.

BY repealing and reenacting, with amendments,
 Article – Transportation
 Section 16–404.1(b) and (f) ~~and 27–101(j)~~
 Annotated Code of Maryland
 (2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, without amendments,
 Article – Transportation
 Section 27–101(h) and 27–107(g)(2)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

16–404.1.

(b) (1) The Administration [may] **SHALL** establish an Ignition Interlock System Program.

(2) The Administration [may] **SHALL** establish a protocol for the Program by regulations that require certain minimum standards for all service providers who service, install, monitor, calibrate, and provide information on ignition interlock systems and include requirements that:

(i) A service provider who applies to the Administration for certification as an approved service provider shall demonstrate that the service provider is able to competently service, install, monitor, calibrate, and provide information **TO THE ADMINISTRATION AT LEAST EVERY 30 DAYS** on **INDIVIDUALS REQUIRED TO USE** ignition interlock systems;

(ii) A service provider who applies to the Administration for certification as an approved service provider shall be certified by a signed affidavit from the manufacturer that the service provider has been trained by an authorized manufacturer and that the service provider is competent to service, install, monitor, calibrate, and provide information on ignition interlock systems;

1 (iii) Approved service providers be deemed to be authorized
2 representatives of a manufacturer; and

3 (iv) Any service of notice upon an approved service provider, who
4 has violated any laws or regulations or whose ignition interlock system has violated
5 any laws or regulations, be deemed as service upon the manufacturer who certified the
6 approved service provider.

7 (3) An individual may be a participant if:

8 (i) The individual's license is suspended or revoked for a
9 violation of [§ 21-902(a), (b), or (c)] **§ 21-902(C)** of this article or an accumulation of
10 points under § 16-402(a)(25) or (34) of this subtitle **FOR A VIOLATION OF §**
11 **21-902(C) OF THIS ARTICLE;**

12 (ii) [The individual is ordered to participate in the Program by a
13 court under § 27-107 of this article;

14 (iii)] The individual's license has an alcohol restriction imposed
15 under § 16-113(b) or (g) of this title; or

16 [(iv)] **(III)** The Administration modifies a suspension or issues a
17 restrictive license to the individual under § 16-205.1(b)(3)(vii) or (n)(2) or (4) of this
18 title.

19 **(4) AN INDIVIDUAL SHALL BE A PARTICIPANT IF THE INDIVIDUAL**
20 **IS CONVICTED OF, ~~OR GRANTED PROBATION UNDER § 6-220(C) OF THE~~**
21 **~~CRIMINAL PROCEDURE ARTICLE FOR,~~ A VIOLATION OF § 21-902(A) OR (B) OF**
22 **THIS ARTICLE.**

23 **[(4)] (5)** The Administration may:

24 (i) Issue a restrictive license to an individual who is a
25 participant in the Program during the suspension period as provided under §
26 16-404(c)(3) of this subtitle;

27 (ii) Reinstate the driver's license of a participant whose license
28 has been revoked for a violation of § 21-902(a), (b), or (c) of this article or revoked for
29 an accumulation of points under § 16-402(a)(34) of this subtitle for a violation of §
30 21-902(a) of this article; and

31 (iii) Notwithstanding any other provision of law, impose on a
32 participant a period of suspension in accordance with § 16-404(c)(2) and (3) of this
33 subtitle in lieu of a license revocation for:

34 1. A violation of § 21-902(a), (b), or (c) of this article; or

1 (f) (1) An individual required to use an ignition interlock system under a
2 court order **OR UNDER THIS SECTION:**

3 (i) Shall be monitored by the Administration; and

4 (ii) **[Shall] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF**
5 **THIS SUBSECTION, SHALL** pay the fee required by the Administration under
6 subsection **[(b)(6)] (B)(8)** of this section.

7 **(2) THE FEE REQUIRED UNDER THIS SUBSECTION SHALL BE**
8 **WAIVED FOR AN INDIVIDUAL WHO IS INDIGENT.**

9 **[(2)] (3)** A court order that requires the use of an ignition interlock
10 system is not affected by § 16-404(c)(3) of this subtitle.

11 **(4) ~~AN INDIVIDUAL SHALL BE CREDITED FOR ANY SUCCESSFUL~~**
12 **~~PARTICIPATION IN THE PROGRAM THAT OCCURS BEFORE A HEARING IN COURT~~**
13 **IF PROGRAM PARTICIPATION IS REQUIRED UNDER A COURT ORDER AND UNDER**
14 **THIS SECTION, ARISING OUT OF THE SAME INCIDENT, THE PERIODS OF**
15 **PARTICIPATION SHALL RUN CONCURRENTLY.**

16 27-101.

17 ~~(j) (1) In this subsection, "imprisonment" includes confinement in:~~

18 ~~(i) An inpatient rehabilitation or treatment center; or~~

19 ~~(ii) Home detention that includes electronic monitoring for the~~
20 ~~purpose of participating in an alcohol treatment program that is:~~

21 ~~1. Certified by the Department of Health and Mental~~
22 ~~Hygiene;~~

23 ~~2. Certified by an agency in an adjacent state that has~~
24 ~~powers and duties similar to the Department of Health and Mental Hygiene; or~~

25 ~~3. Approved by the court.~~

26 ~~(2) (i) A person who is convicted of a violation of § 21-902(a) of this~~
27 ~~article within 5 years after a prior conviction under that subsection is subject to a~~
28 ~~mandatory minimum penalty of imprisonment for not less than 5 days.~~

29 ~~(ii) A person who is convicted of a third or subsequent offense~~
30 ~~under § 21-902(a) of this article within 5 years is subject to a mandatory minimum~~
31 ~~penalty of imprisonment for not less than 10 days.~~

1 ~~(3) (i) A person who is convicted of a violation of § 21-902(d) of this~~
2 ~~article within 5 years after a prior conviction under that subsection is subject to a~~
3 ~~mandatory minimum penalty of imprisonment for not less than 5 days.~~

4 ~~(ii) A person who is convicted of a third or subsequent offense~~
5 ~~under § 21-902(d) of this article within 5 years is subject to a mandatory minimum~~
6 ~~penalty of imprisonment for not less than 10 days.~~

7 ~~(4) A person who is convicted of an offense under § 21-902(a) of this~~
8 ~~article within 5 years of a prior conviction of any offense under that subsection shall be~~
9 ~~required by the court to:~~

10 ~~(i) Undergo a comprehensive alcohol abuse assessment; and~~

11 ~~(ii) If recommended at the conclusion of the assessment,~~
12 ~~participate in an alcohol program as ordered by the court that is:~~

13 ~~1. Certified by the Department of Health and Mental~~
14 ~~Hygiene;~~

15 ~~2. Certified by an agency in an adjacent state that has~~
16 ~~powers and duties similar to the Department of Health and Mental Hygiene; or~~

17 ~~3. Approved by the court.~~

18 ~~(5) A person who is convicted of an offense under § 21-902(d) of this~~
19 ~~article within 5 years of a prior conviction of any offense under that subsection shall be~~
20 ~~required by the court to:~~

21 ~~(i) Undergo a comprehensive drug abuse assessment; and~~

22 ~~(ii) If recommended at the conclusion of the assessment,~~
23 ~~participate in a drug program as ordered by the court that is:~~

24 ~~1. Certified by the Department of Health and Mental~~
25 ~~Hygiene;~~

26 ~~2. Certified by an agency in an adjacent state that has~~
27 ~~powers and duties similar to the Department of Health and Mental Hygiene; or~~

28 ~~3. Approved by the court.~~

29 ~~(6) A PERSON WHO IS CONVICTED OF AN OFFENSE UNDER §~~
30 ~~16-303(C) OR (D) OF THIS ARTICLE FOR DRIVING WHILE THE PERSON'S LICENSE~~
31 ~~TO DRIVE IS SUSPENDED OR REVOKED IS SUBJECT TO A MANDATORY MINIMUM~~
32 ~~PENALTY OF IMPRISONMENT FOR NOT LESS THAN 5 DAYS, IF THE LICENSE TO~~

1 ~~DRIVE WAS SUSPENDED OR REVOKED AS A RESULT OF A VIOLATION OF §~~
2 ~~21-902(A) OR (B) OF THIS ARTICLE OR A FAILURE TO SUCCESSFULLY COMPLETE~~
3 ~~THE IGNITION INTERLOCK SYSTEM PROGRAM UNDER § 16-404.1 OF THIS~~
4 ~~ARTICLE.~~

5 ~~(7) The penalties provided by this subsection are mandatory and are~~
6 ~~not subject to suspension or probation.~~

7 (h) Any person who is convicted of a violation of any of the provisions of §
8 16-303(a), (b), (c), (d), (e), (f), or (g) of this article (“Driving while license is canceled,
9 suspended, refused, or revoked”), § 17-107 of this article (“Prohibitions”), or § 17-110
10 of this article (“Providing false evidence of required security”) is subject to:

11 (1) For a first offense, a fine of not more than \$1,000, or imprisonment
12 for not more than 1 year, or both; and

13 (2) For any subsequent offense, a fine of not more than \$1,000, or
14 imprisonment for not more than 2 years, or both.

15 27-107.

16 (g) (2) If a person is required, in the course of the person’s employment, to
17 operate a motor vehicle owned or provided by the person’s employer, the person may
18 operate that motor vehicle in the course of the person’s employment without
19 installation of an ignition interlock system if the court or the Administration has
20 expressly permitted the person to operate in the course of the person’s employment a
21 motor vehicle that is not equipped with an ignition interlock system.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.